IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY EIGHTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 8468 of 2005

Between:

Guda Tribal Welfare Association, Paderu, rep., by its

President Padi Krishna Murthy, Paderu, Paderu (M),
Visakhapatnam District.

..... PETITIONER

AND

1 The Commissioner, Commercial Taxes, Nampally, Hyderabad.
2 Government of Andhra Pradesh, rep., by its Prl., Secretary,

Commercial Taxes, Hyderabad.
3 Government of Andhra Pradesh, rep., by its Prl. Secretary,

General Administration Department, Hyderabad.
4 Deputy Commissioner, Commercial Taxes, Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ or order or direction more particularly one in the nature of mandamus declaring the action of the respondents in not giving exemption to the herbal commodities 'Pippal Modi' and 'Pippal Nalaka' from tax by listing it in Schedule-I in spite of the fact that it is exclusively cultivated by the tribals and is intended for the medicinal use of tribal women for pos natal treatment, and in spite of the fact that before advent of the VAT Act 2005 it was exempted from Tax by virtue of GO

Ms.No.396(Revenue C II Department) as illegal, arbitrary, unjust, unreasonable and against the fundamental rights of the tribals and also their unfettered exclusive right on the usage of medicinal herbs and to consequently direct the respondents not to levy tax on the said commodities of Pippal Modi and Pippal Nalaka at any point by listing it in Schedule I and pass such other further order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

For the Petitioner: Mr.K.Sarva Bhouma Rao, Advocate.

For the Respondents: GP for Commercial Tax.

The Court made the following:

ORDER: (per Sri B. Sudershan Reddy, J)

The petitioner is virtually seeking a writ of Mandamus to amend the provisions of the AP VAT Act, 2005. The relief as prayed for in this writ petition cannot be granted by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India.

The sum and substance of the case set up by the writ petitioner is that the respondents have not considered the representation dated 06-10-2004 for including the herbal commodities 'Pippal Modi' and 'Pippal Nalaka' in Schedule – I so that they are exempted from payment of value added tax under the AP VAT Act, 2005.

It is for the respondents to take an appropriate decision in the matter. A writ does not lie compelling the respondents either to include or exclude any of the commodities into Schedule – I of the AP VAT Act, 2005.

However, this order shall nor preclude the respondents to take an appropriate decision in the matter with reference to the representation of the petitioner dated 06-10-2004.

The Writ Petition shall accordingly stand dismissed.

(B. Sudershan Reddy, J)

28-04-2005

(C.V. Ramulu, J)

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To

1 The Commissioner, Commercial Taxes, Nampally, Hyderabad.
2 The Prl., Secretary, Commercial Taxes,

Government of Andhra Pradesh, Hyderabad.
3 The Prl. Secretary, General Administration Department,

Government of Andhra Pradesh, Hyderabad.
4 Deputy Commissioner, Commercial Taxes, Visakhapatnam.

5. Two CCs to the Government Pleader for Commercial Taxes, High Court of Andhra Pradesh, Hyderabad (OUT).

6. Two CD copies.